

Water Pollution Control Advisory Council (WPCAC) Conference Call
May 8, 2003 1:00 p.m.-2:00 p.m.
Room 239/240 Metcalf Building

Attendees:

Council Members:

Richard Parks, Fishing Outfitters Association of MT
Barb Butler, Billings Solid Waste Division
Roger Noble, Land and Water Consultants
Jack Stults, Department of Natural Resources &
Conservation (DNRC)
Robert Willems, Soil & Water Conservation District

Other Attendees:

Bob Bukantis, Department of
Environmental Quality (DEQ)
Bonnie Lovelace, DEQ
Eric Regensburger, DEQ

Approval of Minutes

Chairman Richard Parks called the WPCAC meeting to order at 1:00 p.m. The minutes from the February 13, 2003 meeting were approved.

Proposed Revisions to Nondegradation Rules Regarding Nonsignificance Determination Criteria for Onsite Wastewater Treatment Systems

Bonnie Lovelace said that this set of rules replaces the ones that were adopted in 1998, which created some exemptions from having to complete the nondegradation determination calculations. This revision of the exemptions ensures the criteria are appropriate to legitimately determine nonsignificance.

Eric Regensburger said that the previous exemptions only applied to minor subdivisions of five lots or less. The proposed revisis will apply to minor and major subdivisions with only one specific exemption having a limit on the number of lots. Section 1(c) has eight subsections that describe criteria that any subsurface wastewater treatment system must meet to be considered for exemption. Wastewater treatment systems seeking exemption must meet one of the four separate sets of criteria (sections 2-5) once the eight criteria in section 1(c) are met. New criteria include: section 4, based on growth rate of a community; section 5, based on treatment; and section 6, which allows the department to address site-specific occurrences that would require the nondegradation calculations to be done.

Richard Parks said that section 2 indicated that percolations tests are only required if they have already been done. This would encourage people to not have one done for their soil when applying for exemptions.

Eric Regensburger said the current version of DEQ-4, the subsurface wastewater treatment circular, does not require a percolation test to be done. In order to be consistent with the DEQ-4 requirements, an extra percolation test is not required to meet the exemptions, but if one has been done DEQ needs to see it to determine if it meets the criteria in the rule. The soils information, which is required, can be compared to anticipated percolation rate in DEQ-4

Jack Stults asked what is the meaning of synergistic effects?

Eric Regensburger said that synergistic effects means that for example one parameter in an effluent might cause cancer at one concentration but when mixed with another parameter it may cause cancer at a much different rate or concentration.

Richard Parks said that it would help to have the criteria laid out in a grid. In the current format it is difficult to figure out what is required for exemption.

Bonnie Lovelace said that the rules must be initially written in this format for rulemaking. A simpler guide is usually created for public use once the rules are passed.

Process for Selecting a New Council

Bob Bukantis said that SB 321 was signed into law by Governor Judy Martz and changes the make-up of the council. These positions all serve at the pleasure of the governor who will have the final say in who represents the different interests outlined in SB 321. DEQ will solicit nominations from various organizations to be represented on the council. All nominations should be submitted in writing with the nominees' qualifications to DEQ. The nominations will be assembled and a recommendation will be made and passed to DEQ's director, Jan Sensibaugh. Jan Sensibaugh may adjust the recommendations and pass final recommendations on to the governor's office for a final decision. Current council members who are interested in staying on the council and see a slot that would be appropriate for them are encouraged to submit a letter of interest and their qualifications in writing to DEQ.

Bob Willens asked that if he were no longer a conservation district supervisor, would he have to resign?

Bob Bukantis said that since Bob represents conservation districts whether he would be eligible to continue would be up to the conservation Districts.

Richard Parks said that it would be good to send a memo out to the current council members to let them know if they are interested in remaining on the council and see a slot that would be appropriated for them, they could send Bob Bukantis a letter of interest and their qualifications.

Other Updates

Bob Bukantis said that the Department decided that it did not want the WPCAC minutes forwarded to the BER. WPCAC is an advisory council to the Department not to the BER. With the volume of materials currently submitted to the BER the Department felt it was sufficient for the Department to present the WPCACs advice and motions during the presentation of the material to the BER.

In the regards to the discussion of proposed rulemaking by EPA and the Army Corps of Engineers to redefine waters affected by the Clean Water Act, the comment period ended April 16, 2003. There were over 115,000 comments submitted. More than 30 states commented and a majority of the states including Montana supported a narrow interpretation of the SWANCC decision and support continued broad jurisdiction of the Clean Water Act. DEQ commented on

three main areas. DEQ commented on the justification of proposed rulemaking. DEQ felt the SWANCC decision was narrow and not a good basis for EPA and the Corps to limit the scope or regulations of the Clean Water Act. The Department requested EPA and the Corps to abandon the proposed rulemaking process completely. DEQ commented on our concerns for the proposed affected Montana waters, which include wetlands, isolated wetlands, and possibly remove protection from headwater streams and riparian systems. Many of these waters have clear hydrological conductivity to waters Montana does have responsibility to protect. We are concerned that the proposed rulemaking would thereby reduce Montana's ability to protect water quality. There is also concern about impact to the Montana Clean Water Act programs such as the TMDL and Pollution Discharge Elimination System programs.

Jack Stults said he would like to have an electronic copy of DEQ's comments.

Richard Parks would like a copy sent to richard@parksflyshop.com.

Bob Bukantis said that hard copies of DEQ's comments regarding the EPA and Corps proposed rulemaking could also be made available to those who want them.

In regards to when DEQ can adopt the new arsenic standards, DEQ is taking the position that we should not adopt the new standards until EPA adopts them.

Jack Stults said that he would like to remain on the notice list to receive the packets that go out to the Council to keep the line of communication active. He also asked to have Mike McLane remain on the notice list also.

Richard Parks adjourned the meeting at 2:00.